

REMARKS

This paper is responsive to the Office Action mailed September 30, 2004.
Reconsideration of the subject application is respectfully requested.

Claims 1-6 stand rejected pursuant to 35 USC §112, second paragraph, on the basis that claim 1, lines 5-8 are confusing. Parenthetically, it is noted that this language is also present in claims 7, 13, and 19. The below clarification is thus applicable to claims 7, 13, and 19 as well. It is respectfully submitted that the language of claim 1 is consistent with the disclosure of the subject application as originally filed. The following is a reiteration of claim 1 with, for clarification, bold parenthetical inserts referencing numbered elements present in the Detailed Description of the Preferred Embodiments as originally filed:

A toy comprising:

a figure (4) having an arm attachment portion (12); and

at least two figure transport units (6, 8, 10), each of said figure transport units (6, 8, 10) having a body (4) and an arm (18) movable between a first position and a second position with respect to said body (16), said arm (18) having a figure attachment portion (22) for removable attachment of said figure (4) thereto, said figure attachment portion (22) of said arm (18) having a first configuration for attachment of said figure (4) to said arm (18) by attachment of said figure attachment portion (22) of said arm (18) to said arm attachment portion (12) of said figure (4) where said arm (18) is in said first position, said figure (4) attachment portion (22) of said arm (18) having a second configuration for removal of said figure (4) from said arm (18) by separation of said figure attachment portion (22) of said arm (18) from said arm attachment portion (12) of said figure (4) when said arm (18) is in said second position whereby said figure (4) is transported from a first one of said at least two figure transport units (6, 8, 10) to a second one of said at least two figure transport units (6, 8, 10) after movement of said arm (22) of said first one of said at least two figure transport units (6, 8, 10) from said first position to said second position.

While it is maintained that claims 1, 7, 13 and 19 as originally filed are both not vague and allowable over the prior art, in order to expedite prosecution of the subject application, claims 1, 7, 13, and 19 have been amended for clarity by the addition of the term **“figure removal portion (or means)”** to provide added functionality and to more precisely define the purpose of the already claimed “figure attachment portion (or means)” disclosed as element 22 in the Detailed Description of the Preferred Embodiments. No new matter has been added as “figure removal portion (or means)” is equivalent to exterior tube 28 in FIG. 8 and exterior tube 96 of FIG. 9 as originally filed. (See also page 6, lines 13-21 and page 9, lines 18-20).

Claims 1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20 and 22 stand rejected pursuant to 35 USC 102(b) based on U.S. Patent No. 1,974,531 issued to *Dahl*; claims 1-3, 7-10, 13-16 and 19-21 stand rejected under 35 USC 102(b) based on U.S. Patent No. 1,725,870 issued to *Kurcher*; and claims 5, 6, 11, 12, 18, 23 and 24 are held obvious based on *Kurcher* in view of U.S. Patent No. 2,648,158 issued to *Young*.

It is submitted that none of the prior art of record discloses or supports the subject claimed invention in which:

A toy is attached to a figure attachment portion of an arm of a transport unit when the arm is in a first position remote from a figure removal portion of the arm and the toy is removed from the figure attachment portion of the arm by the figure removal portion when the arm is in a second position where the figure attachment portion is then proximate to the figure removal portion.

Dahl discloses an exercising device for **human beings**, specifically, small children:

In order that the rider, especially in the case of children, can grasp the first swing member 20 of the series in a manner to create sufficient impetus to carry him over to the next adjacent swing member 20, it is preferable to provide a starting platform 50 so that the rider may firmly grasp the bar 33 of the adjacent swing member 20 while standing thereon. (*Dahl*, column 4, lines 141-150).

It is earnestly solicited that *Dahl* does not contemplate forcibly sloughing children from an exercise device using "figure removal portions."

Kucher merely uses gravity and change of physical orientation to unsecure a toy resting on a trapeze by hooked hands and body notches. **The toy in *Kucher* is not physically displaced by a "figure removal portion" as the trapeze moves:**

An object 41, preferably shaped as illustrated to represent a performer, is provided. The object embodies hooked hands and feet 42 and 43 as well as a notch 44 located above its center of gravity. The hands and feet 42 and 43 as well as the notch 44 are all adapted to engage either of the cross-bars 20 to 24, inclusive, or the center pin 14 and 15.

Upon release of the catch 32, the weight of the object 41 causes the trapeze structure 17 to move angularly, whereupon the position of the object relative to the trapeze structure becomes changed sufficiently to detach it and cast it through space to engage the cross-bar 24 of the second trapeze structure 18. (*Kucher*, column 3, lines 13-20 and 34-45).

Finally, *Young* merely discloses a toy trapeze having a figure with metal hands and feet along with trapeze bars of increasing magnetic strength such that the figure will magnetically attach from one magnetic trapeze bar to the next. *Young* neither discloses nor suggests **a figure removal portion that is remote from a figure attachment portion in a first position of the arm and that is then proximate to the figure attachment portion in a second position of the arm to then remove the figure from the figure attachment portion of the arm:**

Another form of the invention but using the same framework and trapeze arrangements would include the trapeze artist shown in Figure 6 who is provided with metal hands and feet. When using this figure, bars 16, 17, and 18 would all be magnets in this construction, and such magnets would preferably be of different strengths. The figure would be placed with his metal hands engaging the underside of bar 16 of trapeze 1, as seen in Figure 6,

In this construction, the figure need not be crescent-shaped in side elevation. Oscillation of trapeze 2 would cause the magnetic bar of that magnet to engage the feet of the figure and swing the figure away from trapeze 1 and toward trapeze 2. Several oscillations of trapeze 2 would case the figure to finally engage the bar of trapeze 3.

The magnetism of the bar of magnet 1 holds the figure originally in a vertical position. This bar is not as strong as the bar of trapeze 2, so that when said latter bar is swing to engage the feet of the figure, the figure is released from trapeze 1, and the figure swings by its feet from trapeze 2 until the metal hands thereof strike the bar of trapeze 3 which is a bar of stronger magnetic force than the bar of trapeze 2. The figure's feet, therefore, break loose from trapeze 2, and the figure is held by trapeze 3. (Young, column 4, lines 15-42).

For these reasons stated above, it is respectfully requested that the subject application pass to issue.

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Respectfully submitted,

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